

State Of California

**Public Utilities Commission
San Francisco**

M E M O R A N D U M

Date: April 29, 2002

To: The Commission
(Meeting of May 2, 2002)

From: Bill Julian
Office of Governmental Affairs (OGA) — Sacramento

Subject: **SB 1389 (Bowen and Sher)** – This measure calls for a consolidation of the CEC's five existing energy policy reports into one biennial report with a smaller update report in even years. Forecasting and assessment responsibilities would be expanded to require the CEC to "facilitate efficient and reliable energy markets." The CEC would also gain new data collection authority over a variety of "new market participants."

The CPUC-OGA requests a formal position by the Commission for the above Senate Bill. Please find bill summary attached.

SB 1389 (Bowen and Sher) – Energy Planning and Forecasting

As Amended April 18, 2002

RECOMMENDATION: SUPPORT IF AMENDED

The Integrated Energy Policy Report proposal (Proposal) as outlined by this bill seeks to clarify and expand the California Energy Commission's (CEC) authority in the areas of energy policy (1) Report Preparation, (2) Forecasting and Assessment, and (3) Data Collection. Neither the manner in which this occurs nor the manner of the collaborative role of the CPUC/CEC is not defined in the measure.

SUMMARY: This measure calls for a consolidation of the CEC's five existing energy policy reports into one biennial report with a smaller update report in even years. Forecasting and assessment responsibilities would be expanded to require the CEC to "facilitate efficient and reliable energy markets." The CEC would also gain new data collection authority over a variety of "new market participants."

ANALYSIS: The Proposal would add language to the Warren-Alquist Act that "finds that a complete and thorough understanding of the operations of energy markets, including electricity, natural gas, petroleum and alternative energy sources, is required by state government at all times to enable it to respond to possible shortages, price shocks, oversupplies or other disruptions." In addition, the Proposal states that "one of the objectives of this Act is to encourage cooperation among the various State agencies with energy responsibilities." The CEC's new forecasting and assessment role would be at the center of these new responsibilities.

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Date: March 14, 2002

BILL LANGUAGE

BILL NUMBER: SB 1389

AMENDED BILL TEXT

AMENDED IN SENATE APRIL 18, 2002

INTRODUCED BY Senators Bowen and Sher

FEBRUARY 12, 2002

An act to add Section 25521.5 to, to repeal Sections 25401.1 and 25604 of, and to repeal and add Chapter 4 (commencing with Section 25300) of Division 15 of, the Public Resources Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1389, as amended, Bowen. Energy: planning and forecasting.

The planning and forecasting provisions of the existing Warren-Alquist State Energy Resources Conservation and Development Act require the State Energy Resources Conservation and Development Commission to prepare various reports. These reports include a draft and final electricity report based on reporting and forecasting required to be submitted by electric utilities, a report regarding emerging trends in energy availability and use, a report related to energy conservation, and a report regarding emerging trends in use, availability, and price of transportation fuels, among other things.

This bill would repeal the provisions of law requiring various reports, and instead require the commission to prepare an integrated energy policy report on or before November 1, 2003, *and every two years thereafter* as specified. The bill would require the commission to conduct assessments and forecasts as often as necessary, but no less frequently than every 2 years. The bill would require the commission to conduct workshops and hearings for purposes of the report.

The bill would also ~~authorize~~ *require* the commission to ~~adopt~~ *manage* a data collection system for obtaining the information ~~regarding the current demand and supply for all energy forms used in~~

~~California~~ necessary to develop specified energy policy reports and analyses, and energy shortage contingency planning efforts, and to support other duties of the commission, as prescribed . The bill would authorize the commission to impose a civil penalty to ensure timely and accurate compliance with the data collection system. The bill would include certain requirements relating to the confidentiality of the data.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Chapter 4 (commencing with Section 25300) of Division 15 of the Public Resources Code is repealed.

SEC. 2. Chapter 4 (commencing with Section 25300) is added to Division 15 of the Public Resources Code, to read:

CHAPTER 4. INTEGRATED ENERGY POLICY REPORTING

25300. (a) The Legislature finds and declares that clean and reliable energy is essential to the health of the California economy and of vital importance to the health and welfare of the citizens of the state and to the environment.

(b) The Legislature further finds and declares that government has an essential role to ensure that a reliable supply of energy is provided consistent with protection of public health and safety, promotion of the general welfare, maintenance of a sound economy, conservation of resources, and preservation of environmental quality.

(c) The Legislature further finds and declares that the state government requires at all times a complete and thorough understanding of the operation of energy markets, including electricity, natural gas, petroleum, and alternative energy sources, to enable it to respond to possible shortages, price shocks, oversupplies, or other disruptions.

(d) The Legislature further finds and declares that timely reporting, assessment, forecasting, and data collection activities are essential to serve the information and policy development needs of the Governor, the Legislature, public agencies, market participants, and the public.

(e) The Legislature further finds and declares that one of the objectives of this act is to encourage cooperation among the various state agencies with energy responsibilities.

25301. (a) At least every two years, the commission shall conduct

assessments and forecasts of all aspects of energy industry supply, production, transportation, delivery and distribution, demand, and prices. The commission shall use these assessments and forecasts to develop energy policies that conserve resources, protect the environment, ensure energy reliability, enhance the state's economy, and protect public health and safety. To perform these assessments and forecasts, the commission may require submission of demand forecasts, resource plans, market assessments, and related outlooks from electric and natural gas utilities, transportation fuel and technology suppliers, and other market participants. These assessments and forecasts shall be done in consultation with the appropriate state and federal agencies including, but not limited to, the Public Utilities Commission, the Air Resources Board, the Electricity Oversight Board, the Independent System Operator, the Department of Water Resources, the California Consumer Power and Conservation Financing Authority, the Department of Transportation, and the Department of Motor Vehicles.

(b) In developing the assessments and forecasts prepared pursuant to subdivision (a), the commission shall do all of the following:

- (1) Provide information about the performance of energy industries.
- (2) Develop and maintain the analytical capability sufficient to answer inquiries about energy issues from government, market participants, and the public.
- (3) Analyze and develop energy policies.
- (4) Provide an analytical foundation for regulatory and policy decisionmaking.
- (5) Facilitate efficient and reliable energy markets.

25302. (a) Beginning November 1, 2003, and every two years thereafter, the commission shall adopt an integrated energy policy report. This integrated report shall contain an overview of major energy trends and issues facing the state, including, but not limited to, supply, demand, pricing, reliability, efficiency, and impacts on public health and safety, the economy, resources, and the environment. Energy markets and systems shall be grouped and assessed in three subsidiary volumes:

- (1) Electricity and natural gas markets.
- (2) Transportation fuels, technologies, and infrastructure.
- (3) Public interest energy strategies.

(b) The commission shall compile the integrated energy policy report prepared pursuant to subdivision (a) by consolidating the analyses and findings of the subsidiary volumes in paragraphs (1), (2), and (3) of subdivision (a). The integrated energy policy report shall present policy recommendations based on an indepth and integrated analysis of the most current and pressing energy issues facing the state. The analyses supporting this integrated energy

policy report shall explicitly address interfuel and intermarket effects to provide a more informed evaluation of potential tradeoffs when developing energy policy across different markets and systems.

(c) The integrated energy policy report shall include an assessment and forecast of system reliability and the need for resource additions, efficiency, and conservation that considers all aspects of energy industries and markets that are essential for the state economy, general welfare, public health and safety, energy diversity, and protection of the environment. This assessment shall be based on determinations made pursuant to this chapter.

(d) Beginning November 1, 2004, and every two years thereafter, the commission shall prepare an energy policy review to update analyses from the integrated energy policy report prepared pursuant to subdivisions (a), (b), and (c), or to raise energy issues that have emerged since the release of the integrated energy policy report. The commission may also periodically prepare and release technical analyses and assessments of energy issues and concerns to provide timely and relevant information for the Governor, the Legislature, market participants, and the public.

(e) In preparation of the report, the commission shall consult with the following entities: the Public Utilities Commission, the State Air Resources Board, the Electricity Oversight Board, the Independent System Operator, the Department of Water Resources, the California Consumer Power and Conservation Financing Authority, the Department of Transportation, and the Department of Motor Vehicles, and any federal, state, and local agencies it deems necessary in preparation of the integrated energy policy report. To assure collaborative development of state energy policies, these agencies shall make a good faith effort to provide data, assessment, and proposed recommendations for review by the commission.

(f) The commission shall provide the report to the Public Utilities Commission, the State Air Resources Board, the Electricity Oversight Board, the Independent System Operator, the Department of Water Resources, the California Consumer Power and Conservation Financing Authority, and the Department of Transportation. To assist those entities in carrying out their energy-related duties and responsibilities, each entity shall consider the information and analyses contained in the report to ensure consistency in the underlying information that forms the foundation of energy policies and decisions affecting the state.

(g) The commission shall make the report accessible to state, local, and federal entities and to the general public.

25303. (a) The commission shall conduct electricity and natural gas forecasting and assessment activities to meet the requirements of paragraph (1) of subdivision (a) of Section 25302, including, but not limited to, all of the following:

(1) Assessment of trends in electricity and natural gas supply and demand, and the outlook for wholesale and retail prices for commodity electricity and natural gas under current market structures and expected market conditions.

(2) Forecasts of statewide and regional electricity and natural gas demand including annual, seasonal, and peak demand, and the factors leading to projected demand growth including, but not limited to, projected population growth, urban development, industrial expansion and energy intensity of industries, energy demand for different building types, energy efficiency, and other factors influencing demand for electricity. With respect to long-range forecasts of the demand for natural gas, the report shall include an evaluation of average conditions, as well as best and worst case scenarios, and an evaluation of the impact of the increasing use of renewable resources on natural gas demand.

(3) Evaluation of the adequacy of electricity and natural gas supplies to meet forecasted demand growth. Assessment of the availability, reliability, and efficiency of the electricity and natural gas infrastructure and systems including, but not limited to, natural gas production capability both in and out of state, natural gas interstate and intrastate pipeline capacity, storage and use, and western regional and California electricity and transmission system capacity and use.

(4) Evaluation of potential impacts of electricity and natural gas supply, demand, and infrastructure and resource additions on the electricity and natural gas systems, public health and safety, the economy, resources, and the environment.

(5) Evaluation of the potential impacts of electricity and natural gas load management efforts, including end user response to market price signals, as a means to ensure reliable operation of electricity and natural gas systems.

(6) Evaluation of whether electricity and natural gas markets are adequately meeting public interest objectives including the provision of all of the following: economic benefits; competitive, low-cost reliable services; customer information and protection; and environmentally sensitive electricity and natural gas supplies. This evaluation may consider the extent to which California is an element within western energy markets, the existence of appropriate incentives for market participants to provide supplies and for consumers to respond to energy prices, appropriate identification of responsibilities of various market participants, and an assessment of long-term versus short-term market performance. To the extent this evaluation identifies market shortcomings, the commission shall propose market structure changes to improve performance.

(7) Identification of impending or potential problems or uncertainties in the electricity and natural gas markets, potential

options and solutions, and recommendations.

(b) Commencing November 1, 2003, and every two years thereafter, to be included in the integrated energy policy report prepared pursuant to Section 25302, the commission shall assess the current status of the following:

(1) The environmental performance of the electric generation facilities of the state, to include all of the following:

- (A) Generation facility efficiency.
- (B) Air emission control technologies in use in operating plants.

(C) The extent to which recent resource additions have, and expected resource additions are likely to, displace or reduce the operation of existing facilities, including the environmental consequences of these changes.

(2) The geographic distribution of statewide environmental, efficiency, and socioeconomic benefits and drawbacks of existing generation facilities, including, but not limited to, the impacts on natural resources including wildlife habitat, air quality, and water resources, and the relationship to demographic factors. The assessment shall describe the socioeconomic and demographic factors that existed when the facilities were constructed and the current status of these factors. In addition, the report shall include how expected or recent resource additions could change the assessment through displaced or reduced operation of existing facilities.

25304. The commission shall conduct transportation forecasting and assessment activities to meet the requirements of paragraph (2) of subdivision (a) of Section 25302 including, but not limited to:

(a) Assessment of trends in transportation fuels, technologies, and infrastructure supply and demand and the outlook for wholesale and retail prices for petroleum, petroleum products, and alternative transportation fuels under current market structures and expected market conditions.

(b) Forecasts of statewide and regional transportation energy demand, both annual and seasonal, and the factors leading to projected demand growth including, but not limited to, projected population growth, urban development, vehicle miles traveled, the type, class, and efficiency of personal vehicles and commercial fleets, and shifts in transportation modes.

(c) Evaluation of the sufficiency of transportation fuel supplies, technologies, and infrastructure to meet projected transportation demand growth. Assessment of crude oil and other transportation fuel feedstock supplies; in-state, national, and worldwide production and refining capacity; product output storage availability; and transportation and distribution systems capacity and use.

(d) Assessments of the risks of supply disruptions, price shocks, or other events and the consequences of these events on the

availability and price of transportation fuels and effects on the state's economy.

(e) Evaluation of the potential for needed changes in the state's energy shortage contingency plans to increase production and productivity, improve efficiency of fuel use, increase conservation of resources, and other actions to maintain sufficient, secure, and affordable transportation fuel supplies for the state.

(f) Evaluation of alternative transportation energy scenarios, in the context of least environmental and economic costs, to examine potential effects of alternative fuels usage, vehicle efficiency improvements, and shifts in transportation modes on public health and safety, the economy, resources, the environment, and energy security.

(g) Examination of the success of introduction, prices, and availability of advanced transportation technologies, low- or zero-emission vehicles, and clean-burning transportation fuels, including their potential future contributions to air quality, energy security, and other public interest benefits.

(h) Recommendations to improve the efficiency of transportation energy use, reduce dependence on petroleum fuels, decrease environmental impacts from transportation energy use, and contribute to reducing congestion, promoting economic development, and enhancing energy diversity and security.

25305. The commission shall rely upon forecasting and assessments performed in accordance with Sections 25301 to 25304, inclusive, as the basis for analyzing the success of and developing policy recommendations for public interest energy strategies. Public interest energy strategies include, but are not limited to, achieving energy efficiency and energy conservation; implementing load management; pursuing research, development, demonstration, and commercialization of new technologies; promoting renewable generation technologies; reducing statewide greenhouse gas emissions and addressing the impacts of climate change on California; and protecting and enhancing the environment. Additional assessments to address public interest energy strategies shall include, but are not limited to, all of the following:

(a) Identification of emerging trends in energy efficiency in the residential, commercial, industrial, agricultural, and transportation sectors of the state's economy, including, but not limited to, evaluation of additional achievable energy efficiency measures and technologies. Identification of policies that would permit fuller realization of the potential for energy efficiency, either through direct programmatic actions or facilitation of the market.

(b) Identification of emerging trends in the renewable energy industry. In addition, the commission shall evaluate progress in ensuring the operation of existing facilities, and the development of

new and emerging, in-state renewable resources.

(c) Identification of emerging trends in energy research, development, and demonstration activities that advance science or technology to produce public benefits.

(d) Identification of progress in reducing statewide greenhouse gas emissions and addressing the effects of climate change on California.

25306. The commission shall conduct workshops, hearings, and other forums to gain the perspectives of the public and market participants for purposes of the integrated energy policy report prepared pursuant to Section 25302 and the forecasting and assessments prepared pursuant to Sections 25301, 25303, 25304, and 25305. The commission shall include the comments, as well as responses to those comments, of governmental agencies, industry representatives, market participants, private groups, and any other person concerning the commission's proposals and recommendations in the docket for the integrated energy policy report.

25307. (a) The Governor shall review the integrated energy policy report prepared pursuant to Section 25302 and shall, on or before 90 days after receipt of the report, report further to the Legislature the Governor's agreement or disagreement with the policy recommendations contained in that report. The Governor's report to the Legislature shall cover the information required to be included in the integrated energy policy report and may cover any additional item that is necessary or appropriate. If the Governor disagrees with one or more recommendations in the integrated energy policy report, the Governor shall, in each instance, indicate the reason for disagreement and shall specify the alternate policy the Governor finds appropriate.

(b) The Governor's report to the Legislature pursuant to this section is the Governor's official statement of energy policy.

~~—25320. (a) The commission shall adopt, by regulation, a data collection system for obtaining information regarding the current demand and supply for all energy forms used in California. The data shall include, but not be limited to, information necessary to develop the policy reports and analyses required by Sections 25301 to 25307, inclusive, the energy shortage contingency planning efforts in Chapter 8 (commencing with Section 25700), and other functions specified in this division.~~

~~—(b) The data collection system adopted by the commission shall incorporate all of the following elements:~~

~~—(1) The commission shall adopt a timetable for the submission of this information, so that the integrated energy policy report required by Section 25302 can be completed in an accurate and timely manner.~~

~~—(2) The commission may require any person to submit reasonably relevant information that the person can be expected to acquire through that person's market activities, or that the person possesses, has access to, or controls.~~

~~—(3) The data collection system for electricity and natural gas adopted by the commission shall enumerate specific requirements for each category of market participants, including, but not limited to, private market participants, energy service providers, energy service companies, natural gas marketers, utility distribution companies, independent generators, electric transmission entities, natural gas producers, natural gas pipeline operators, importers and exporters of electricity and natural gas, and specialized electric or natural gas system operators. In addition, the commission may collect information about consumers from their voluntary participation in surveys and other research techniques.~~

~~—(4) The data collection system for petroleum, other fuels, and transportation technologies adopted by the commission shall enumerate specific requirements for each category of market participant, including, but not limited to, refineries, crude or refined fuel importers and exporters, fuel distributors and retailers, fuel pipeline operators, oil and natural gas liquid producers, and transportation technology providers. In addition, the commission may collect information about consumers from their voluntary participation in surveys and other research techniques.~~

~~—(5) The commission shall devise specific data requirements including all facets of supply and demand transactions, the physical activities associated with energy production, transportation, delivery and consumption, and the costs and prices of these activities, as those factors relate to the functional role of each category of market participant in that industry and the consumers within that industry.~~

~~—(6) The commission may obtain information that allows it to develop estimates and proxies for some data elements using surveys and research techniques, while for other information it shall obtain exact data from market participants using submissions from their accounting records. In determining whether to rely upon estimates or precise accounting records, the commission shall weigh the burden of compliance upon industry participants and energy consumers against the benefit of more accurate data for the public interest.~~

~~—(7) The data collection system shall consider data reporting requirements of other government agencies and the extent to which data submitted to these agencies can also be submitted to the commission in fulfillment of the requirements of this section.~~

~~—25321. In order to ensure timely and accurate compliance with the data collection system adopted pursuant to Section 25320,~~

25320. (a) *The commission shall manage a data collection system for obtaining information necessary to develop the policy reports and analyses required by Sections 25301 to 25307, inclusive, the energy shortage contingency planning efforts in Chapter 8 (commencing with Section 25700), and to support other duties of the commission.*

(b) The data collection system managed by the commission shall:

(1) Include a timetable for the submission of this information, so that the integrated energy policy report required by Section 25302 can be completed in an accurate and timely manner.

(2) Require a person to submit only information that is reasonably relevant, and that the person can either be expected to acquire through his or her market activities, or possesses or controls. Information collected pursuant to this section shall relate to the functional role of each category of market participant in that industry and the consumers within that industry.

(3) To the extent it satisfies the information needs of the commission, rely on the use of estimates and proxies, to the maximum extent practicable, for some data elements using survey and research techniques, while for other information it shall obtain data from market participants using submissions from their accounting records. In determining whether to rely upon estimates or participant provided data, the commission shall weigh the burden of compliance upon industry participants and energy consumers against the benefit of participant provided data for the public interest.

(4) To the extent it satisfies the information needs of the commission, rely on data, to the maximum extent practicable, that is reported to other government agencies or is otherwise available to the commission.

(c) In addition to the requirements of subdivision (b), the data collection system for electricity and natural gas shall enumerate specific requirements for each category of market participants, including, but not limited to, private market participants, energy service providers, energy service companies, natural gas marketers, utility distribution companies, independent generators, electric transmission entities, natural gas producers, natural gas pipeline operators, importers and exporters of electricity and natural gas, and specialized electric or natural gas system operators. The commission may also collect information about consumers from their voluntary participation in surveys and other research techniques.

(d) In addition to the requirements of subdivision (b), the data collection system for petroleum, other fuels, and transportation technologies shall enumerate specific requirements for each category of market participant, including, but not limited to, refineries, crude or refined fuel importers and exporters, fuel distributors and retailers, fuel pipeline operators, oil and natural gas liquid producers, as provided in Chapter 4.5 (commencing with Section

25350), and transportation technology providers. The commission may also collect information about consumers from their voluntary participation in surveys and other research techniques the commission may use any of the following enforcement measures:

(a) If any person fails to comply with an applicable provision of the data collection system, the commission shall notify the person. If, on or before five working days after being notified of the violation, the person continues to fail to comply, the person shall be subject to a civil penalty, to be imposed by the commission after a hearing that complies with constitutional requirements. The civil penalty may be not less than five hundred dollars (\$500) and not more than two thousand dollars (\$2,000) for each category of data the person did not provide and for each day the violation has existed and continues to exist.

(b) Any person who willfully makes any false statement, representation, or certification in any record, report, plan, or other document filed with the commission is subject to a civil penalty of not less than five hundred dollars (\$500) or more than two thousand dollars (\$2,000) per day applied to each day in the interval between the original due date and the date when corrected information is submitted.

(c) For the purposes of this section, "person" means, in addition to the definition contained in Section 25116, any responsible corporate officer.

(d) Enforcement

measures for petroleum and other fuels shall be those contained in Section 25362.

25322. (a) The data collection system ~~adopted~~ *managed* pursuant to Section 25320 shall include the following requirements regarding the confidentiality of the information collected by the commission:

(1) Any person required to present information to the commission pursuant to this section may request that specific information be held in confidence. The commission shall grant the request in any of the following circumstances:

(A) The information is exempt from disclosure under the California Public Records Act, Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code.

(B) *The information satisfies the confidentiality requirements of Article 2 (commencing with Section 2501) of Chapter 7 of Division 2 of Title 20 of the California Code of Regulations, as those regulations existed on January 1, 2002.*

(C) On the facts of the particular case, the public interest served by not disclosing the information clearly outweighs the public interest served by disclosure of the information.

~~—(C) Another provision of law authorizes the commission to keep the~~

~~record confidential.~~

~~—(D) The information satisfies the confidentiality requirements in Article 2 (commencing with Section 2501) of Chapter 7 of Division 2 of Title 20 of the California Code of Regulations, as those regulations existed on January 1, 2002.~~

(2) The commission may, by regulation, designate certain categories of information as confidential, which removes the obligation to request confidentiality for that information.

(3) Any confidential information pertinent to the responsibilities of the commission specified in this chapter that is obtained by another state agency , *or the California Independent System Operator or its successor*, shall be available to the commission and shall be treated in a confidential manner.

(4) Information presented to or developed by the commission and deemed confidential pursuant to this section shall be held in confidence by the commission. Confidential information shall be aggregated or masked to the extent necessary to assure confidentiality if public disclosure of the specific information would result in an unfair competitive disadvantage to the person supplying the information.

~~—(5)~~

(b) Requests for records of information shall be handled as follows:

~~—(A)~~

(1) If the commission receives a written request to publicly disclose information that is being held in confidence pursuant to paragraphs (1) or (2) of subdivision (a), the commission shall provide the person making the request with written justification for the confidential designation and a description of the process to seek disclosure.

(2) If the commission receives a written request to publicly disclose an ~~unaggregated~~ *disaggregated* or unmasked record of information designated as confidential under ~~this subdivision~~ *paragraphs (1) or (2) of subdivision (a)* , notice of the request shall be provided to the person that submitted the record. Upon receipt of the notice, the person that submitted the record may, within five working days of receipt of the notice, provide a written justification of the claim of confidentiality.

~~—(B) The commission or its designee shall rule on the request on~~

(3) The commission or its designee shall rule on a request made pursuant to paragraph (2) on or before 20 working days after its receipt. The commission shall deny the request if the disclosure will result in an unfair competitive disadvantage to the person that submitted the information. If disclosure will not result in an

unfair competitive disadvantage to the person that submitted the information, the commission shall grant the request unless the public interest served by not making the information public clearly outweighs the public interest served by disclosure of the information, or unless another applicable provision of law exempts the information from disclosure.

—(C)

(4) If the commission grants the request pursuant to ~~subparagraph (B)~~ paragraph (3) , it shall withhold disclosure for a reasonable amount of time, not to exceed 14 working days, to allow the submitter of the information to seek judicial review.

—(6)

(c) No information submitted to the commission pursuant to this section is confidential if the person submitting the information has made it public.

—(b)

(d) The commission shall establish, maintain, and use appropriate security practices and procedures to ensure that the information it has designated as confidential, or received with a confidential designation from another government agency, is protected against disclosure other than that authorized using the procedures in ~~paragraph (5) of subdivision (a)~~ subdivision (b) . The commission shall incorporate the following elements into its security practices and procedures:

(1) Commission employees shall sign a confidential data disclosure agreement providing for various remedies, including, but not limited to, fines and termination for wrongful disclosure of confidential information.

(2) Commission employees, or contract employees of the commission, shall only have access to confidential information when it is appropriate to their job assignments and if they have signed a nondisclosure agreement.

(3) Computer data systems that hold confidential information shall include sufficient security measures to protect the data from inadvertent or wrongful access by unauthorized commission employees and the public.

(e) *Data collected by the commission on petroleum fuels in Section 25320 shall be subject to the confidentiality provisions of Sections 25364 to 25366, inclusive.*

(f) *Information withheld pursuant to this section is not subject to disclosure under the Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code.*

SEC. 3. Section 25401.1 of the Public Resources Code is repealed.

SEC. 4. Section 25521.5 is added to the Public Resources Code, to read:

25521.5. Conservation, load management, or other demand reducing measures reasonably expected to occur shall be explicitly taken into account only in the determinations made pursuant to Chapter 4 (commencing with Section 25300), and may not be considered as alternatives to a proposed facility during the siting process.

SEC. 5. Section 25604 of the Public Resources Code is repealed.